

Handwritten initials: JAG, TM, B

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

**PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT
ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)**

Docket Number (Optional)

First named inventor: **BRETT ASHLEY RODERICK**

Application No.: **10/810,409**

Art Unit: **3654**

Filed: **3/26/2004**

Examiner: **Esther O. Okezie**

Title: **HANGER HOISTER TOOL**

Attention: Office of Petitions
Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450
FAX (571) 273-8300

NOTE: If information or assistance is needed in completing this form, please contact Petitions Information at (571) 272-3282.

The above-identified application became abandoned for failure to file a timely and proper reply to a notice or action by the United States Patent and Trademark Office. The date of abandonment is the day after the expiration date of the period set for reply in the office notice or action plus an extensions of time actually obtained.

APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION

NOTE: A grantable petition requires the following items:

- (1) Petition fee;
- (2) Reply and/or issue fee;
- (3) Terminal disclaimer with disclaimer fee - required for all utility and plant applications filed before June 8, 1995; and for all design applications; and
- (4) Statement that the entire delay was unintentional.

1. Petition fee

☒ Small entity-fee \$ 750.00 (37 CFR 1.17(m)). Applicant claims small entity status. See 37 CFR 1.27.

☐ Other than small entity - fee \$ _____ (37 CFR 1.17(m))

09/26/2006 MGE BREM1 00000045 10810409

01 FC:2453

750.00 OP

2. Reply and/or fee

A. The reply and/or fee to the above-noted Office action in the form of Response (identify type of reply):

- ☐ has been filed previously on _____.
- ☒ is enclosed herewith.

B. The issue fee and publication fee (if applicable) of \$ _____.

- ☐ has been paid previously on _____.
- ☐ is enclosed herewith.

[Page 1 of 2]

This collection of information is required by 37 CFR 1.137(b). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1.0 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

3. Terminal disclaimer with disclaimer fee

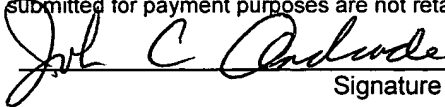
☒ Since this utility/plant application was filed on or after June 8, 1995, no terminal disclaimer is required.

☐ A terminal disclaimer (and disclaimer fee (37 CFR 1.20(d)) of \$ _____ for a small entity or \$ _____ for other than a small entity) disclaiming the required period of time is enclosed herewith (see PTO/SB/63).

4. STATEMENT: The entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional. [NOTE: The United States Patent and Trademark Office may require additional information if there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137(b) was unintentional (MPEP 711.03(c), subsections (III)(C) and (D)).]

WARNING:

Petitioner/applicant is cautioned to avoid submitting personal information in documents filed in a patent application that may contribute to identity theft. Personal information such as social security numbers, bank account numbers, or credit card numbers (other than a check or credit card authorization form PTO-2038 submitted for payment purposes) is never required by the USPTO to support a petition or an application. If this type of personal information is included in documents submitted to the USPTO, petitioners/applicants should consider redacting such personal information from the documents before submitting them to the USPTO. Petitioner/applicant is advised that the record of a patent application is available to the public after publication of the application (unless a non-publication request in compliance with 37 CFR 1.213(a) is made in the application) or issuance of a patent. Furthermore, the record from an abandoned application may also be available to the public if the application is referenced in a published application or an issued patent (see 37 CFR 1.14). Checks and credit card authorization forms PTO-2038 submitted for payment purposes are not retained in the application file and therefore are not publicly available.


Signature

9-22-06
Date

John C. Andrade, Esquire

31,919

Typed or printed name

Registration Number, if applicable

Parkowski, Guerke & Swayze, P.A.

302-678-3262

Address

Telephone Number

116 West Water Street, Dover, DE 19904

Address

Enclosures: ☒ Fee Payment

☐ Reply

☐ Terminal Disclaimer Form

☐ Additional sheets containing statements establishing unintentional delay

☐ Other: _____

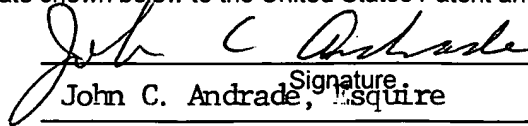
CERTIFICATE OF MAILING OR TRANSMISSION [37 CFR 1.8(a)]

I hereby certify that this correspondence is being:

☒ Deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to: Mail Stop Petition, Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450.

☐ Transmitted by facsimile on the date shown below to the United States Patent and Trademark Office at (571) 273-8300.

9-22-06
Date


Signature

John C. Andrade, Esquire

Typed or printed name of person signing certificate



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

IN THE APPLICATION OF:
BRETT ASHLEY RODERICK

APPLICATION NO.: 10/810,409

GROUP ART UNIT: 3654

FILING DATE: 3/26/2004

EXAMINER: ESTHER O. OKEZIE

TITLE: HANGER HOISTER TOOL

CONFIRMATION NO.: 8915

DATE: SEPTEMBER 22, 2006

ATTY. DOCKET: JH03-182

Honorable Commissioner of Patents and Trademarks
U.S. Patent & Trademark Office
P. O. Box 1450
Alexandria, VA 22313-1450


Dear Sir:

STATEMENT OF UNINTENTIONAL DELAY UNDER C.F.R. §1.137(b)(3)

The latest Office Action in this matter had a mailing date of January 12, 2006. On January 23, 2006, Applicant's attorney, John C. Andrade, Esquire, forwarded by mail the Office Action to the Inventor, Brett Ashley Roderick, with a goal to have the Response to the Examiner no later than March 12, 2006. The Affidavit of Brett Ashley Roderick attached hereto indicates that he never received the letter dated January 23, 2006 and it was always his intention to prosecute the application and never his intention to abandon the application. Unfortunately, through oversight, no tickler was prepared and the next either the Applicant or the Applicant's attorney was made aware of the status of the application was on September 18, 2006 when a telephone call was received from the Examiner Esther O. Okezie. Applicant's attorney's first response was that he did not recall seeing the Office Action in question, but when he checked the file he realized that in fact the Office Action had been sent and a letter had been forward to the Applicant. The Applicant was called who indicated he never received the letter and met with Applicant's attorney on the next day, September 19, 2006. Applicant signed the attached Affidavit and gave the information included in the Response submitted with this Statement. Applicant's attorney was out of the office on September 20 and 21 and this document was filed on September 22, 2006.

It was always the intention to prosecute this application and from the date the reply was due which was April 12, 2006 until September 22, 2006 any delay was strictly unintentional.

Respectfully submitted,



JOHN C. ANDRADE
Attorney for Applicant

Registration No. 31,919

Telephone: (302) 678-3262



LAW OFFICES

PARKOWSKI, GUERKE & SWAYZE

PROFESSIONAL ASSOCIATION

116 WEST WATER STREET

P.O. Box 598

DOVER, DELAWARE 19903

302-678-3262

FAX: 302-678-9415

F. MICHAEL PARKOWSKI

I. BARRY GUERKE

DAVID S. SWAYZE

CLAY T. JESTER

JEREMY W. HOMER

JOHN C. ANDRADE

MARK F. DUNKLE

WILLIAM A. DENMAN

MICHAEL W. ARRINGTON

CHRISTINE P. SCHILTZ

MICHAEL W. TEICHMAN

BASIL C. KOLLIAS

ANNE HARTNETT REIGLE

GEORGE F. GARDNER, III
OF COUNSEL

WILMINGTON OFFICE
800 KING STREET, SUITE 203
WILMINGTON, DE 19801-0369
302-654-3300
FAX: 302-654-3033

January 23, 2006

Brett Roderick
10649 Assateague Road
Berlin, MD 21811

**RE: Hangar Hoister Tool
Application #10/810,409
Publication #US-2005-0212314-A1**

Dear Brett:

Unfortunately the Examiner deemed our last response unpersuasive. While I disagree with her, I believe the next step would be to schedule a meeting with her and explain the differences between your invention and Lambson. Many times in these cases there is some type of misunderstanding that can be remedied by a face-to-face meeting. If this next approach is acceptable to you, please contact my assistant, Nancy, and let her know and she'll contact the Examiner to set up the meeting. I would like to meet with you a few days beforehand to go back over the Office Action and to prepare for the meeting. The mailing date on the Office Action is January 12, 2006. I'd like to have our response in to her prior to March 12, 2006 and therefore, I'd like to set the meeting up sometime in mid-February. I look forward to hearing from you.

Very truly yours,

JOHN C. ANDRADE

JCA/ncs
Enclosure



AFFIDAVIT OF BRETT ASHLEY RODERICK

IN THE APPLICATION OF:
BRETT ASHLEY BRODERICK

APPLICATION NO.: 10/810,409

GROUP ART UNIT: 3654

FILING DATE: 3/26/2004

EXAMINER: ESTHER O. OKEZIE

TITLE: HANGER HOISTER TOOL

CONFIRMATION NO.: 8915

DATE: SEPTEMBER 19, 2006

ATTY. DOCKET: JH03-182

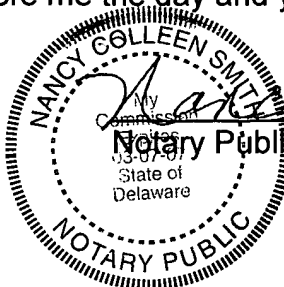
STATE OF DELAWARE :
:SS:
COUNTY OF KENT :


BE IT REMEMBERED, that on this 19th day of September, A.D. 2006, personally appeared before me, the subscriber, a Notary Public for the State and County aforesaid, BRETT ASHLEY RODERICK, who, being duly sworn by me according to law did depose and say that the foregoing is true and correct to the best of his knowledge, information and belief.

I am the inventor of the Hanger Hoister Tool, Application number 10/810,409. I never received the letter, dated January 23, 2006, attached hereto as Exhibit "A". It was always my intention to prosecute this application and never my intention to abandon the application.


BRETT ASHLEY RODERICK

SWORN TO and subscribed before me the day and year aforesaid.




Nancy Colleen Smith
Notary Public
State of Delaware



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

IN THE APPLICATION OF:
BRETT ASHLEY RODERICK

APPLICATION NO.: 10/810,409

GROUP ART UNIT: 3654

FILING DATE: 3/26/2004

EXAMINER: ESTHER O. OKEZIE

TITLE: HANGER HOISTER TOOL

CONFIRMATION NO.: 8915

DATE: SEPTEMBER 22, 2006

ATTY. DOCKET: JH03-182

Honorable Commissioner of Patents and Trademarks
U.S. Patent & Trademark Office
P. O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

RESPONSE

This Response is addressed to the Office Action mailed January 12, 2006.

Claims 1, 6 and 10 were rejected under 35 U.S.C. §102(b) as being anticipated by Lambson. The Examiner has indicated that the adjustable legs on Lambson, subsequent to adjustment are held rigidly to the body by posts (15) and seat members (17) however the tool is not useable when the legs in Lambson are held rigidly and they must be adjustable before they are held rigid unlike the present invention.

The Examiner has also argued that the lower part of the legs (3) extend upward from the body section (6) yet in Fig. 2 it shows the legs clearly extending perpendicular and then downward from the body (6). The legs (3) as shown in Fig. 2 are the portion that extends outward and are connected to (4) section which extends downward. It is not a fair view of Fig. 2 to say that the legs extend upward.

The Examiner claims that Lambson has a means for holding a bracket (7) and also has a pedestal keel (14) extending outward from said body, but the Claim indicates that the means for holding a bracket comprises a pedestal keel and the hammering block (14) is not in position to hold the bracket as is set out in Claim 1(c). The Examiner indicates that Lambson has pedestal tongues (8, 9), which extend outward in the opposite direction of the pedestal keel and away from said body. The Examiner further states that the pedestal tongues are capable of supporting an article such as nails or screws depending on the use of the device. Quite simply if they are used to support nails or screws they're not being used as a pedestal. Figs. 2 and 3 in the present invention

show the pedestal tongues used to hold up the header (28). There is no way to classify the items identified as 8, 9 in Lambson as pedestals.

The Examiner has indicated that numbers 14 and numbers 8 and 9 in Lambson are offset by the thickness of the heel of the bracket depending on the size of the bracket. There are no brackets having the thickness that would account for the noticeable difference between 14 and 8 and 9. The difference as shown in Figs. 2 and 3 of Lambson are considerable. The hammering block (14) in Lambson is in fact positioned offset and higher than the stop surfaces (8 and 9) enabling the hammer block to impact the bracket prongs while one of the spacer stops is aligned to the top edge of the bottom support of the bracket. Lambson made an allowance for the difference in size of the brackets in reference to the height of the bracket not the thickness of the bracket's material. Since Lambson hooks onto the top of the ledger board, the thickness of the bracket is not a relevant factor in any spacing of Lambson. In the current invention the offset of the thickness of the bracket is important to the function of the present invention and is not present in Lambson.

Claims 7, 8 and 9 were rejected under 35 U.S.C. §103(a) but all are dependent on Claim 1 and likewise Claim 10 rejected under 35 U.S.C. §103 is also dependent on Claim 1 and can be covered by the argument set out above and there is no need to further address them here.

The applicant maintains that Lambson clearly does not disclose the current invention and for the reasons set forth above the current invention is clearly patentable over Lambson. Reconsideration is requested and if the Examiner is not inclined to grant the application based on the above, then applicant requests either a teleconference or a meeting with the Examiner to present the above and to address any questions the Examiner may have.

Respectfully submitted,


JOHN C. ANDRADE
Attorney for Applicant
Registration No. 31,919
Telephone: (302) 678-3262



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

IN THE APPLICATION OF:
BRETT ASHLEY RODERICK

APPLICATION NO.: 10/810,409

GROUP ART UNIT: 3654

FILING DATE: 3/26/2004

EXAMINER: ESTHER O. OKEZIE

TITLE: HANGER HOISTER TOOL

CONFIRMATION NO.: 8915

DATE: SEPTEMBER 22, 2006

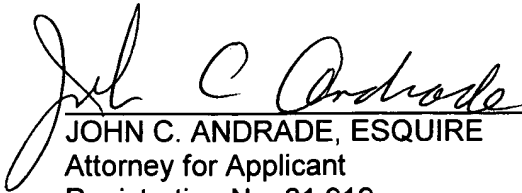
ATTY. DOCKET: JH03-182

CERTIFICATE OF MAILING BY "EXPRESS MAIL"

"Express Mail" Mailing Label Number: EJ178094388US

Date of Deposit: September 22, 2006

I hereby certify that this paper is being deposited with the United States Postal Service "Express Mail Post Office to Addressee" service under 37 C.F.R. §1.10 on the date indicated above and is addressed to the Honorable Commissioner of Patents, P.O. Box 1450, Alexandria, VA 22313-1450.



JOHN C. ANDRADE, ESQUIRE
Attorney for Applicant
Registration No. 31,919
Telephone: (302) 678-3262



LAW OFFICES

PARKOWSKI, GUERKE & SWAYZE

PROFESSIONAL ASSOCIATION

116 WEST WATER STREET

P.O. Box 598

DOVER, DELAWARE 19903

302-678-3262

FAX: 302-678-9415

F. MICHAEL PARKOWSKI

I. BARRY GUERKE

DAVID S. SWAYZE

CLAY T. JESTER

JEREMY W. HOMER

JOHN C. ANDRADE

MARK F. DUNKLE

WILLIAM A. DENMAN

MICHAEL W. ARRINGTON

CHRISTINE P. SCHILTZ

MICHAEL W. TEICHMAN

BASIL C. KOLLIAS

ANNE HARTNETT REIGLE

GEORGE F. GARDNER, III
OF COUNSEL

WILMINGTON OFFICE
800 KING STREET, SUITE 203
WILMINGTON, DE 19801-0369
302-654-3300
FAX: 302-654-3033

September 22, 2006

Office of Petitions
Mail Stop Petition
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

RE: IN THE APPLICATION OF: BRETT ASHLEY RODERICK
APPLICATION NO.: 10/810,409
GROUP ART UNIT: 3654
FILING DATE: 3/26/2004
EXAMINER: ESTHER O. OKEZIE
TITLE: HANGER HOISTER TOOL
CONFIRMATION NO.: 8915

Dear Commissioner:

I'm not sure if the Request for Continued Examination Transmittal is required to be filed (one individual at the Patent Office said "yes", another said "no"). If there are any other forms needed at this time or additional fees due, please contact me as soon as possible at 302-678-3262. Thank you for your assistance in this matter.

Very truly yours,

JOHN C. ANDRADE

JCA/ncs